

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

PREPAREME AMERICA LLC, a
Washington limited liability company,

Plaintiff,

v.

SURVIVAL PREP WAREHOUSE,
LLC, a Washington limited liability
company, TANIA LORRAINE
ANGEL, a/k/a Tania Lorraine Kahlor,
a/k/a Tania Lorraine Biechler, a/k/a
Tania Biechler Angel, MARK A.
ANGEL, and the marital community
composed thereof,

Defendants,

v.

CHAD E. ALLEN,

Third-Party Defendant.

CASE NO. C17-359 TSZ

STIPULATED PROTECTIVE ORDER

NOTE ON MOTION CALENDAR:
SEPTEMBER 27, 2017

1. PURPOSES AND LIMITATIONS

Discovery in this action is likely to involve production of confidential, proprietary, or private information for which special protection may be warranted. Accordingly, the parties hereby stipulate to and petition the court to enter the following Stipulated Protective Order. The parties acknowledge that this agreement is consistent with LCR 26(c). It does not confer blanket

1 protection on all disclosures or responses to discovery, the protection it affords from public
2 disclosure and use extends only to the limited information or items that are entitled to
3 confidential treatment under the applicable legal principles, and it does not presumptively entitle
4 parties to file confidential information under seal.

5 2. “CONFIDENTIAL” MATERIAL

6 “Confidential” material shall include the following documents and tangible things
7 produced or otherwise exchanged: (1) lists or other documents comprising names or contact
8 information of customers or former customers; (2) lists or other documents comprising names or
9 contact information of suppliers; (3) non-public contracts or agreements, (4) trade secret information
10 as defined in the Uniform Trade Secrets Act, chapter 19.108 RCW; (5) quality control procedures
11 employed by a party; (6) non-public research and development, financial, technical, marketing,
12 pricing, and revenue information; and, (7) non-public communications regarding prospective
13 business relationships between a party or non-party and its customers, (8) information specifically
14 identified as confidential or proprietary in agreements or other contemporaneous documents referring
15 to such information.

16 3. SCOPE

17 The protections conferred by this agreement cover not only confidential material (as
18 defined above), but also (1) any information copied or extracted from confidential material; (2)
19 all copies, excerpts, summaries, or compilations of confidential material; and (3) any testimony,
20 conversations, or presentations by parties or their counsel that might reveal confidential material.

21 However, the protections conferred by this agreement do not cover information that is in
22 the public domain or becomes part of the public domain through trial or otherwise.

23 4. ACCESS TO AND USE OF CONFIDENTIAL MATERIAL

24 4.1 Basic Principles. A receiving party may use confidential material that is disclosed
25 or produced by another party or by a non-party in connection with this case only for prosecuting,

1 defending, or attempting to settle this litigation. Confidential material may be disclosed only to
2 the categories of persons and under the conditions described in this agreement. Confidential
3 material must be stored and maintained by a receiving party at a location and in a secure manner
4 that ensures that access is limited to the persons authorized under this agreement.

5 4.2 Disclosure of "CONFIDENTIAL" Information or Items. Unless otherwise
6 ordered by the court or permitted in writing by the designating party, a receiving party may
7 disclose any confidential material only to:

8 (a) the receiving party's counsel of record in this action, as well as employees
9 of counsel to whom it is reasonably necessary to disclose the information for this litigation;

10 (b) the officers, directors, and employees (including in house counsel) of the
11 receiving party to whom disclosure is reasonably necessary for this litigation, unless the parties
12 agree that a particular document or material produced is for Attorney's Eyes Only and is so
13 designated;

14 (c) experts and consultants to whom disclosure is reasonably necessary for
15 this litigation and who have signed the "Acknowledgment and Agreement to Be Bound" (Exhibit
16 A);

17 (d) the court, court personnel, and court reporters and their staff;

18 (e) copy or imaging services retained by counsel to assist in the duplication of
19 confidential material, provided that counsel for the party retaining the copy or imaging service
20 instructs the service not to disclose any confidential material to third parties and to immediately
21 return all originals and copies of any confidential material;

22 (f) during their depositions, witnesses in the action to whom disclosure is
23 reasonably necessary and who have signed the "Acknowledgment and Agreement to Be Bound"
24 (Exhibit A), unless otherwise agreed by the designating party or ordered by the court. Pages of
25 transcribed deposition testimony or exhibits to depositions that reveal confidential material must
26

1 be separately bound by the court reporter and may not be disclosed to anyone except as permitted
2 under this agreement;

3 (g) the author or recipient of a document containing the information or a
4 custodian or other person who otherwise possessed or knew the information.

5 4.3 “ATTORNEYS’ EYES ONLY” Material. Any party may designate certain
6 confidential material as “Attorneys’ Eyes Only” if that party deems that the disclosure of such
7 material to a party or in-house counsel, officers, directors, managers, and/or employees of a party is
8 deemed to create a substantial risk of serious harm that could not be avoided by less restrictive
9 means. Confidential material marked “Attorneys’ Eyes Only” shall not be disclosed to or used by
10 anyone except counsel of record for a party and the persons listed in paragraphs 4.2, (c), (d), (e) and
11 (g). “Attorneys’ Eyes Only” material may also be disclosed to additional persons by agreement of
12 the parties or by order of the Court.

13 4.4 Filing Confidential Material. Before filing confidential material or discussing or
14 referencing such material in court filings, the filing party shall confer with the designating party
15 to determine whether the designating party will remove the confidential designation, whether the
16 document can be redacted, or whether a motion to seal or stipulation and proposed order is
17 warranted. Local Civil Rule 5(g) sets forth the procedures that must be followed and the
18 standards that will be applied when a party seeks permission from the court to file material under
19 seal.

20 5. DESIGNATING PROTECTED MATERIAL

21 5.1 Exercise of Restraint and Care in Designating Material for Protection. Each party
22 or non-party that designates information or items for protection under this agreement must take
23 care to limit any such designation to specific material that qualifies under the appropriate
24 standards. The designating party must designate for protection only those parts of material,
25 documents, items, or oral or written communications that qualify, so that other portions of the
26

1 material, documents, items, or communications for which protection is not warranted are not
2 swept unjustifiably within the ambit of this agreement.

3 Mass, indiscriminate, or routinized designations are prohibited. Designations that are
4 shown to be clearly unjustified or that have been made for an improper purpose (*e.g.*, to
5 unnecessarily encumber or delay the case development process or to impose unnecessary
6 expenses and burdens on other parties) expose the designating party to sanctions.

7 If it comes to a designating party's attention that information or items that it designated
8 for protection do not qualify for protection, the designating party must promptly notify all other
9 parties that it is withdrawing the mistaken designation.

10 5.2 Manner and Timing of Designations. Except as otherwise provided in this
11 agreement (see, *e.g.*, second paragraph of section 5.2(a) below), or as otherwise stipulated or
12 ordered, disclosure or discovery material that qualifies for protection under this agreement must
13 be clearly so designated before or when the material is disclosed or produced.

14 (a) Information in documentary form: (*e.g.*, paper or electronic documents
15 and deposition exhibits, but excluding transcripts of depositions or other pretrial or trial
16 proceedings), the designating party must affix the word "CONFIDENTIAL" and/or
17 "ATTORNEYS' EYES ONLY" to each page that contains confidential material. If only a
18 portion or portions of the material on a page qualifies for protection, the producing party also
19 must clearly identify the protected portion(s) (*e.g.*, by making appropriate markings in the
20 margins).

21 (b) Testimony given in deposition or in other pretrial proceedings: the parties
22 and any participating non-parties must identify on the record, during the deposition or other
23 pretrial proceeding, all protected testimony, without prejudice to their right to so designate other
24 testimony after reviewing the transcript. Any party or non-party may, within fifteen days after
25 receiving the transcript of the deposition or other pretrial proceeding, designate portions of the
26

1 transcript, or exhibits thereto, as confidential. If a party or non-party desires to protect
2 confidential information at trial, the issue should be addressed during the pre-trial conference.

3 (c) Other tangible items: the producing party must affix in a prominent place
4 on the exterior of the container or containers in which the information or item is stored the word
5 “CONFIDENTIAL” and/or “ATTORNEYS’ EYES ONLY.” If only a portion or portions of the
6 information or item warrant protection, the producing party, to the extent practicable, shall
7 identify the protected portion(s).

8 5.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent failure to
9 designate qualified information or items does not, standing alone, waive the designating party’s
10 right to secure protection under this agreement for such material. Upon timely correction of a
11 designation, the receiving party must make reasonable efforts to ensure that the material is
12 treated in accordance with the provisions of this agreement.

13 6. NON-PARTY DISCOVERY

14 6.1 Designation and Treatment of Material Produced by Non-parties. If a party
15 receives documents, things, testimony, information, or other material from a non-party in
16 response to a subpoena issued under Fed. R. Civ. P. 45, and such material relates to the business,
17 correspondence, or other actions of a party, the receiving party must provide a copy of such
18 material to the party to whom such material relates. The party to whom the material relates shall
19 then have fourteen (14) days from receipt to designate such material as “CONFIDENTIAL”
20 and/or “ATTORNEYS’ EYES ONLY.” All documents, things, testimony, information, or other
21 material received in response to a subpoena shall be treated as ATTORNEYS’ EYES ONLY
22 until this fourteen (14) day period has passed.

1 7. CHALLENGING CONFIDENTIALITY DESIGNATIONS

2 7.1 Timing of Challenges. Any party or non-party may challenge a designation of
3 information or items for protection under this agreement at any time. Unless a prompt challenge
4 to a designating party's designation is necessary to avoid foreseeable, substantial unfairness,
5 unnecessary economic burdens, or a significant disruption or delay of the litigation, a party does
6 not waive its right to challenge a designation by electing not to mount a challenge promptly after
7 the original designation is disclosed.

8 7.2 Meet and Confer. The parties must make every attempt to resolve any dispute
9 regarding designations under this agreement without court involvement. Any motion regarding
10 designations under this agreement or for a protective order must include a certification, in the
11 motion or in a declaration or affidavit, that the movant has engaged in a good faith meet and
12 confer conference with other affected parties in an effort to resolve the dispute without court
13 action. The certification must list the date, manner, and participants to the conference. A good
14 faith effort to confer requires a face-to-face meeting or a telephone conference.

15 7.3 Judicial Intervention. If the parties cannot resolve a challenge without court
16 intervention, the designating party may file and serve a motion to retain a designation made
17 under this agreement under Local Civil Rule 7 (and in compliance with Local Civil Rule 5(g), if
18 applicable). The burden of persuasion in any such motion shall be on the designating party.
19 Frivolous challenges, and those made for an improper purpose (*e.g.*, to harass or impose
20 unnecessary expenses and burdens on other parties) may expose the challenging party to
21 sanctions. All parties shall continue to maintain the material in question as confidential until the
22 court rules on the challenge.

1 8. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED IN OTHER
2 LITIGATION

3 If a party is served with a subpoena or a court order issued in other litigation that compels
4 disclosure of any information or items designated in this action as “CONFIDENTIAL” and/or
5 “ATTORNEYS’ EYES ONLY” that party must:

6 (a) promptly notify the designating party in writing and include a copy of the
7 subpoena or court order;

8 (b) promptly notify in writing the party who caused the subpoena or order to
9 issue in the other litigation that some or all of the material covered by the subpoena or order is
10 subject to this agreement. Such notification shall include a copy of this agreement; and

11 (c) cooperate with respect to all reasonable procedures sought to be pursued
12 by the designating party whose confidential material may be affected.

13 9. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL

14 If a receiving party learns that, by inadvertence or otherwise, it has disclosed confidential
15 material to any person or in any circumstance not authorized under this agreement, the receiving
16 party must immediately (a) notify in writing the designating party of the unauthorized
17 disclosures, (b) use its best efforts to retrieve all unauthorized copies of the protected material,
18 (c) inform the person or persons to whom unauthorized disclosures were made of all the terms of
19 this agreement, and (d) request that such person or persons execute the “Acknowledgment and
20 Agreement to Be Bound” that is attached hereto as Exhibit A.

21 10. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE PROTECTED
22 MATERIAL

23 When a producing party gives notice to receiving parties that certain inadvertently
24 produced material is subject to a claim of privilege or other protection, the obligations of the
25 receiving parties are those set forth in Federal Rule of Civil Procedure 26(b)(5)(B). This

provision is not intended to modify whatever procedure may be established in an e-discovery order or agreement that provides for production without prior privilege review. The parties agree to the entry of a non-waiver order under Fed. R. Evid. 502(d) as set forth herein.

11. NON TERMINATION AND RETURN OF DOCUMENTS

Within 60 days after the termination of this action, including all appeals, each receiving party must return all confidential material to the producing party, including all copies, extracts and summaries thereof. Alternatively, the parties may agree upon appropriate methods of destruction.

Notwithstanding this provision, counsel are entitled to retain one archival copy of all documents filed with the court, trial, deposition, and hearing transcripts, correspondence, deposition and trial exhibits, expert reports, attorney work product, and consultant and expert work product, even if such materials contain confidential material.

The confidentiality obligations imposed by this agreement shall remain in effect until a designating party agrees otherwise in writing or a court orders otherwise.

IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

DATED: **September 27, 2017**

MATESKY LAW^{PLLC}

RUTTLE MILLIS, PLLC

By: /s/ Michal P. Matesky, II

By: /s/ Daniel J. Mills

Michael P. Matesky, II (WSBA #39586)
1001 4th Ave., Suite 3200
Seattle, WA 98154
Ph: 206.701.0331
Fax: 206.701.0332
Email: mike@mateskylaw.com;
litigation@mateskylaw.com

Daniel J. Mills (WSBA#39384)
16300 Mill Creek Blvd. #113
Mill Creek, WA 98012
daniel@ruttlermills.com
206.838.6400

CARNEY BADLEY SPELLMAN, P.S.

*Counsel for PrepareMe America, LLC
and Chad E. Allen*

By: /s/ John R. Welch
John R. Welch (WSBA No. 26649)
701 Fifth Avenue, Suite 3600

STIPULATED PROTECTIVE ORDER- 9
Case No. C17-359 TSZ

Matesky Law PLLC
1001 4th Ave., Suite 3200
Seattle, WA 98154
Ph: 206.701.0331 Fax: 206.701.0332

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
Seattle, WA 98104
Phone: (206) 622-8020
Facsimile: (206) 467-8215
Email: welch@carneylaw.com

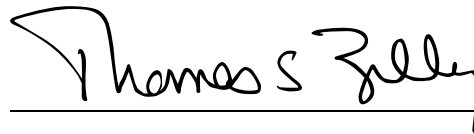
*Counsel for Survival Prep Warehouse,
LLC, Tania L. Angel, and Mark A. Angel*

1
2 ORDER

3 The parties' stipulated motion, docket no. 31, is GRANTED, and pursuant to the parties'
4 stipulation, this Protective Order is APPROVED and ENTERED.

5 IT IS FURTHER ORDERED that pursuant to Fed. R. Evid. 502(d), the production of any
6 documents in this proceeding shall not, for the purposes of this proceeding or any other
7 proceeding in any other court, constitute a waiver by the producing party of any privilege
8 applicable to those documents, including the attorney-client privilege, attorney work-product
9 protection, or any other privilege or protection recognized by law.

10 DATED: October 2, 2017.

11
12 

13 Thomas S. Zilly
14 United States District Judge
15
16
17
18
19
20
21
22
23
24
25
26

1 EXHIBIT A

2 ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

3 I, _____ [print or type full name], of
4 _____ [print or type full address], declare under penalty of
5 perjury that I have read in its entirety and understand the Stipulated Protective Order that was
6 issued by the United States District Court for the Western District of Washington on
7 _____[date] in the case of *PrepareMe America, LLC v. Survival Prep Warehouse,*
8 *LLC, et. al.*, Case No. C17-359 TSZ. I agree to comply with and to be bound by all the terms of
9 this Stipulated Protective Order and I understand and acknowledge that failure to so comply
10 could expose me to sanctions and punishment in the nature of contempt. I solemnly promise that
11 I will not disclose in any manner any information or item that is subject to this Stipulated
12 Protective Order to any person or entity except in strict compliance with the provisions of this
13 Order.

14 I further agree to submit to the jurisdiction of the United States District Court for the
15 Western District of Washington for the purpose of enforcing the terms of this Stipulated
16 Protective Order, even if such enforcement proceedings occur after termination of this action.

17 Date: _____

18 City and State where sworn and signed: _____

19 Printed name: _____

20 Signature: _____